



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2005 REGULAR SESSION

HOUSE BILL NO. 424

WEDNESDAY, FEBRUARY 23, 2005

The following bill was reported to the Senate from the House and ordered to be printed.

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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

AN ACT relating to wireless service providers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO
READ AS FOLLOWS:

(1) The provision of commercial mobile radio services shall be market-based and not subject to Public Service Commission regulation. Notwithstanding any other provision of law to the contrary, except as provided in subsections (2) to (5) of this section, the commission shall not impose any requirement upon a commercial mobile radio services provider with respect to the following:

(a) The availability of facilities or equipment used to provide commercial mobile radio services; or

(b) The rates, terms, and conditions for, or entry into, the provision of commercial mobile radio service.

(2) The provisions of this section do not limit or modify the commission's authority to arbitrate and enforce interconnection agreements.

(3) The commission shall retain jurisdiction to assist in the resolution of consumer complaints.

(4) The commission may develop standards that are generally applicable to companies that are designated and operate as eligible telecommunications carriers, pursuant to 47 U.S.C. sec. 214(e), or as carriers of last resort. The commission may exercise its authority to ensure that these carriers, including commercial mobile radio service providers that receive eligible telecommunications carrier status, comply with those standards.

(5) The commission shall retain jurisdiction over cellular towers pursuant to KRS 278.665.

Section 2. KRS 278.010 is amended to read as follows:

As used in KRS 278.010 to 278.450, and in KRS 278.990, unless the context otherwise

1 requires:

2 (1) "Corporation" includes private, quasipublic, and public corporations, and all boards,
3 agencies, and instrumentalities thereof, associations, joint-stock companies, and
4 business trusts;

5 (2) "Person" includes natural persons, partnerships, corporations, and two (2) or more
6 persons having a joint or common interest;

7 (3) "Utility" means any person except, for purposes of paragraphs (a), (b), (c), (d), and
8 (f) of this subsection, a city, who owns, controls, operates, or manages any facility
9 used or to be used for or in connection with:

10 (a) The generation, production, transmission, or distribution of electricity to or for
11 the public, for compensation, for lights, heat, power, or other uses;

12 (b) The production, manufacture, storage, distribution, sale, or furnishing of
13 natural or manufactured gas, or a mixture of same, to or for the public, for
14 compensation, for light, heat, power, or other uses;

15 (c) The transporting or conveying of gas, crude oil, or other fluid substance by
16 pipeline to or for the public, for compensation;

17 (d) The diverting, developing, pumping, impounding, distributing, or furnishing
18 of water to or for the public, for compensation;

19 (e) The transmission or conveyance over wire, in air, or otherwise, of any
20 message by telephone or telegraph for the public, for compensation; or

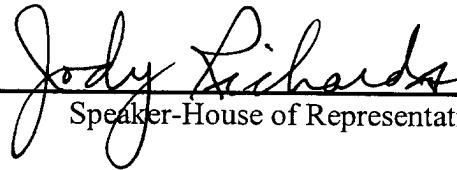
21 (f) The collection, transmission, or treatment of sewage for the public, for
22 compensation, if the facility is a subdivision collection, transmission, or
23 treatment facility plant that is affixed to real property and is located in a
24 county containing a city of the first class or is a sewage collection,
25 transmission, or treatment facility that is affixed to real property, that is
26 located in any other county, and that is not subject to regulation by a
27 metropolitan sewer district or any sanitation district created pursuant to KRS

1 Chapter 220;

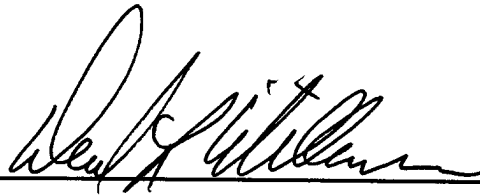
- 2 (4) "Retail electric supplier" means any person, firm, corporation, association, or
3 cooperative corporation, excluding municipal corporations, engaged in the
4 furnishing of retail electric service;
- 5 (5) "Certified territory" shall mean the areas as certified by and pursuant to KRS
6 278.017;
- 7 (6) "Existing distribution line" shall mean an electric line which on June 16, 1972, is
8 being or has been substantially used to supply retail electric service and includes all
9 lines from the distribution substation to the electric consuming facility but does not
10 include any transmission facilities used primarily to transfer energy in bulk;
- 11 (7) "Retail electric service" means electric service furnished to a consumer for ultimate
12 consumption, but does not include wholesale electric energy furnished by an electric
13 supplier to another electric supplier for resale;
- 14 (8) "Electric-consuming facilities" means everything that utilizes electric energy from a
15 central station source;
- 16 (9) "Generation and transmission cooperative," or "G&T," means a utility formed under
17 KRS Chapter 279 that provides electric generation and transmission services;
- 18 (10) "Distribution cooperative" means a utility formed under KRS Chapter 279 that
19 provides retail electric service;
- 20 (11) "Facility" includes all property, means, and instrumentalities owned, operated,
21 leased, licensed, used, furnished, or supplied for, by, or in connection with the
22 business of any utility;
- 23 (12) "Rate" means any individual or joint fare, toll, charge, rental, or other compensation
24 for service rendered or to be rendered by any utility, and any rule, regulation,
25 practice, act, requirement, or privilege in any way relating to such fare, toll, charge,
26 rental, or other compensation, and any schedule or tariff or part of a schedule or
27 tariff thereof;

- 1 (13) "Service" includes any practice or requirement in any way relating to the service of
2 any utility, including the voltage of electricity, the heat units and pressure of gas, the
3 purity, pressure, and quantity of water, and in general the quality, quantity, and
4 pressure of any commodity or product used or to be used for or in connection with
5 the business of any utility;
- 6 (14) "Adequate service" means having sufficient capacity to meet the maximum
7 estimated requirements of the customer to be served during the year following the
8 commencement of permanent service and to meet the maximum estimated
9 requirements of other actual customers to be supplied from the same lines or
10 facilities during such year and to assure such customers of reasonable continuity of
11 service;
- 12 (15) "Commission" means the Public Service Commission of Kentucky;
- 13 (16) "Commissioner" means one (1) of the members of the commission;
- 14 (17) "Demand-side management" means any conservation, load management, or other
15 utility activity intended to influence the level or pattern of customer usage or
16 demand, including home energy assistance programs;
- 17 (18) "Affiliate" means a person that controls or that is controlled by, or is under common
18 control with, a utility;
- 19 (19) "Control" means the power to direct the management or policies of a person through
20 ownership, by contract, or otherwise;
- 21 (20) "CAM" means a cost allocation manual which is an indexed compilation and
22 documentation of a company's cost allocation policies and related procedures;
- 23 (21) "Nonregulated activity" means the provision of competitive retail gas or electric
24 services or other products or services over which the commission exerts no
25 regulatory authority;
- 26 (22) "Nonregulated" means that which is not subject to regulation by the commission;
- 27 (23) "Regulated activity" means a service provided by a utility or other person, the rates

- 1 and charges of which are regulated by the commission;
- 2 (24) "USoA" means uniform system of accounts which is a system of accounts for public
3 utilities established by the FERC and adopted by the commission;
- 4 (25) "Arm's length" means the standard of conduct under which unrelated parties, each
5 party acting in its own best interest, would negotiate and carry out a particular
6 transaction;
- 7 (26) "Subsidize" means the recovery of costs or the transfer of value from one (1) class
8 of customer, activity, or business unit that is attributable to another;
- 9 (27) "Solicit" means to engage in or offer for sale a good or service, either directly or
10 indirectly and irrespective of place or audience;
- 11 (28) "USDA" means the United States Department of Agriculture;
- 12 (29) "FERC" means the Federal Energy Regulatory Commission; and
- 13 (30) "SEC" means the Securities and Exchange Commission.
- 14 (31) "Commercial mobile radio services" has the same meaning as in 47 C.F.R. sec.
15 20.3 and includes the term "wireless" and service provided by any wireless real
16 time two (2) way voice communication device, including radio-telephone
17 communications used in cellular telephone service, personal communications
18 service, and the functional or competitive equivalent of a radio-telephone
19 communications line used in cellular telephone service, a personal
20 communications service, or a network radio access line.



Speaker-House of Representatives



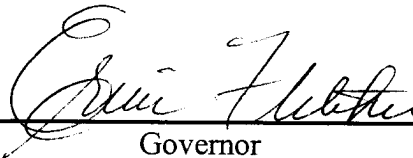
President of the Senate

Attest:



Chief Clerk of House of Representatives

Approved



Governor

Date

